

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY PANAMA NIACT IMMEDIATE

UNCLAS STATE 038489

FOR AMBASSADORS BUNKER AND LINOWITZ FROM LUERS

E.O. 11652:

TAGS: PFOR, PN

SUBJECT: DRUMMOND SUIT

DEPARTMENT OF JUSTICE HAS REQUESTED DEPARTMENT TO
SUPPLY AFFIDAVIT SUPPORTING SEVERAL ARGUMENTS MADE IN
ITS BRIEF ASKING FOR A DISMISSAL OF THE DRUMMOND SUIT
AND OPPOSING THE PLAINTIFF'S REQUEST FOR A PRELIMINARY
INJUNCTION. FOLLOWING IS TEXT OF AFFIDAVIT WHICH L HAS
PREPARED FOR MY SIGNATURE. IT MUST BE SUBMITTED TO THE
COURT ON FEBRUARY 22, AND WE ARE ASKING FOR YOUR COMMENTS.
PLEASE PROVIDE US WITH YOUR COMMENTS ASAP BUT IN NO
EVENT LATER THAN 9 AM MONDAY:

BEGIN TEXT

AFFIDAVIT OF WILLIAM H. LUERS

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BEFORE THE UNDERSIGNED, A DULY QUALIFIED AND COMMISSIONED
NOTARY PUBLIC, THERE APPEARED WILLIAM H. LUERS, WHO,
HAVING BEEN DULY SWORN, DID DEPOSE AND SAY THAT THE
FOLLOWING IS TRUE TO THE BEST OF HIS KNOWLEDGE AND
BELIEF:

1. I HAVE BEEN ACTING ASSISTANT SECRETARY FOR INTER-

AMERICAN AFFAIRS, DEPARTMENT OF STATE SINCE JANUARY 20, 1977. I HAVE BEEN A DEPUTY ASSISTANT SECRETARY FOR INTER-AMERICAN AFFAIRS SINCE MARCH 20, 1975. PRIOR TO THAT TIME I SERVED FOR A TOTAL OF SIX YEARS IN VARIOUS INTER-AMERICAN AFFAIRS POSTS.

2. I AM THE SENIOR OFFICER WITHIN THE DEPARTMENT OF STATE SPECIFICALLY CHARGED WITH THE DEVELOPMENT AND IMPLEMENTATION OF U.S. POLICY TOWARD LATIN AMERICA. MY AREA OF RESPONSIBILITY INCLUDES UNITED STATES RELATIONS WITH PANAMA.

3. WHILE OUR CURRENT NEGOTIATIONS WITH PANAMA AIMED AT THE CONCLUSION OF A NEW CANAL TREATY ARE BEING CONDUCTED BY A SPECIAL NEGOTIATING GROUP UNDER THE DIRECTION OF THE SECRETARY OF STATE, I HAVE FOLLOWED THESE NEGOTIATIONS CLOSELY AND CONTRIBUTED TO THE POLICY GUIDANCE PROVIDED THE TEAM BECAUSE OF THEIR UNIQUE SIGNIFICANCE FOR U.S. RELATIONS WITH NOT ONLY PANAMA BUT THE ENTIRE LATIN AMERICAN REGION. OUR POSTURE IN THE PANAMA CANAL NEGOTIATIONS SYMBOLIZES FOR MOST LATIN AMERICANS THE ATTITUDE OF THE UNITED STATES TOWARD THEIR ASPIRATIONS FOR DEVELOPMENT AND GREATER INTERNATIONAL RESPONSIBILITY. IT IS ESSENTIAL FOR U.S. RELATIONS WITH LATIN AMERICA THAT THESE NEGOTIATIONS PROCEED TO A SUCCESSFUL CONCLUSION.

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4. THE COMMITMENT OF THE EXECUTIVE BRANCH TO NEGOTIATE A NEW PANAMA CANAL TREATY SPANS NEARLY THIRTEEN YEARS AND FOUR ADMINISTRATIONS--TWO DEMOCRATIC AND TWO REPUBLICAN. FOLLOWING RIOTS IN THE CANAL ZONE IN 1964 WHICH RESULTED IN MANY DEATHS, PRESIDENT JOHNSON CONSULTED WITH FORMER PRESIDENTS HOOVER, TRUMAN, AND EISENHOWER AND CONCLUDED THAT THE BEST WAY TO PROTECT U.S. INTERESTS IN THE CANAL WOULD BE TO NEGOTIATE A NEW TREATY. DISCUSSIONS BEGUN LATER THAT YEAR RESULTED IN THE INITIALLING OF THREE DRAFT TREATIES IN 1967. THESE WERE NEVER SIGNED, HOWEVER, BECAUSE OF CONCERNS IN BOTH THE UNITED STATES AND PANAMA. THE NIXON ADMINISTRATION RENEWED THE NEGOTIATING EFFORT, BUT THE 1971-72 ROUND ENDED IN A STALEMATE WHICH LED TO A UNITED NATIONS SECURITY COUNCIL MEETING IN PANAMA IN 1973 WHERE THE UNITED STATES WAS FORCED TO EXERCISE ITS RIGHT OF VETO FOR ONLY THE THIRD TIME IN ITS HISTORY. FINALLY, IN FEBRUARY 1974, SECRETARY OF STATE HENRY KISSINGER AND PANAMANIAN MINISTER OF FOREIGN AFFAIRS

JUAN ANTONIO TACK AGREED UPON A JOINT STATEMENT OF PRINCIPLES WHICH PROVIDED THE FRAMEWORK FOR THE PRESENT

ROUND OF NEGOTIATIONS. BOTH PRESIDENTS FORD AND CARTER HAVE AUTHORIZED THE CONTINUATION OF TALKS BASED ON THE GENERAL POINTS OUTLINED IN THE 1974 JOINT STATEMENT.

5. OUR TALKS WITH PANAMA HAVE BEEN EXCEPTIONALLY DIFFICULT BECAUSE OF THE NATURE AND EXTENT OF THE INTERESTS AT STAKE FOR EACH PARTY. WE ARE SEEKING A NEW FORMULA FOR SHARING RIGHTS AND OBLIGATIONS FOR THE MANAGEMENT OF THE CANAL BETWEEN THE TWO COUNTRIES IN SUCH A WAY AS TO GIVE GREATER RECOGNITION TO PANAMA'S JUST ASPIRATIONS, WHILE PROTECTING OUR BASIC NATIONAL INTEREST IN HAVING A CANAL THAT IS OPEN, EFFICIENT, SECURE, AND NEUTRAL. OUR NEGOTIATING TEAM IS PRESENTLY ENGAGED IN ITS FIFTEENTH SESSION IN PANAMA OF THE UNCLASSIFIED

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CURRENT NEGOTIATING ROUND, AND WE HAVE MADE SIGNIFICANT PROGRESS TOWARD REACHING AN AGREEMENT ON THE TERMS OF A NEW ARRANGEMENT FOR THE CANAL.

6. THE ISSUES CURRENTLY UNDER DISCUSSION ARE THE MOST DELICATE AND DIFFICULT TO RESOLVE. FOR THAT REASON, THE NEGOTIATIONS ARE NOW PECULIARLY VULNERABLE TO EXTERNAL FACTORS, AND THEIR SUCCESSFUL CONCLUSION REQUIRES THAT THE MOMENTUM WHICH HAS BEEN ESTABLISHED NOT BE BROKEN.

7. THE EXECUTIVE BRANCH HAS CONSISTENTLY MADE CLEAR THAT IT WILL COMPLY FULLY WITH CONSTITUTIONAL PROCEDURES IN CONCLUDING AND IMPLEMENTING ANY AGREEMENT IT MAY REACH WITH PANAMA. THE FRAMEWORK OF A NEW RELATIONSHIP REGARDING THE PANAMA CANAL WOULD BE INCORPORATED IN A TREATY, AND, ACCORDINGLY, WOULD BE SUBMITTED TO THE SENATE FOR ITS ADVICE AND CONSENT TO RATIFICATION. SIMILARLY, ANY LEGISLATION NECESSARY OR APPROPRIATE TO IMPLEMENT THE TREATY WOULD BE SENT TO CONGRESS ACCORDING TO ESTABLISHED PRACTICE. THE EXECUTIVE BRANCH IS NOT IN POSITION, BEFORE THE TERMS OF A TREATY ARE ESTABLISHED, TO DETERMINE WHAT LEGISLATION WILL BE REQUIRED. HOWEVER, THE EXECUTIVE WOULD NOT, AND COULD NOT, ALTER THE PRESENT STATUS OF THE PANAMA CANAL OR THE CANAL ZONE BY UNILATERAL ACTION.

8. THE ISSUANCE OF ANY ORDER WHICH MIGHT INTERRUPT OR IN ANY WAY LIMIT THE SCOPE OF THE CURRENT NEGOTIATIONS WITH PANAMA COULD CAUSE IRREPARABLE DAMAGE TO THE PRESENT NEGOTIATING EFFORT, AS WELL AS TO OUR RELATIONS

WITH PANAMA. IT WOULD ALMOST CERTAINLY HAVE THE
PRACTICAL EFFECT OF HALTING THE TALKS. A JUDICIAL
ORDER RESTRICTING THE EXERCISE OF THE PRESIDENT'S

CONSTITUTIONAL RESPONSIBILITY TO CONDUCT INTERNATIONAL
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NEGOTIATIONS IN THIS CASE COULD LEAD TO A DANGEROUS
CONFRONTATION WITH PANAMA WHICH WOULD HAVE SEVERE
AND LASTING REPERCUSSIONS THROUGHOUT LATIN AMERICA.

WILLIAM H. LUERS

END OF TEXT
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Message Attributes

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